

BECKISH, JOSEPH ANTHONY DEMARIA, JAMES TONER, RICHARD WITCHER, and PETER O'BRIEN, the defendants, and others known and unknown, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, would and did transmit and cause to be transmitted by means of wire, radio, and television communication in interstate and foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, in violation of Title 18, United States Code, Section 1343.

(Title 18, United States Code, Section 1349.)

COUNT TWO

(Wire Fraud)

The Grand Jury further charges:

3. From at least in or about 2013 up to and including at least in or about 2017, in the Southern District of New York and elsewhere, JAMES BECKISH, JOSEPH ANTHONY DEMARIA, JAMES TONER, RICHARD WITCHER, and PETER O'BRIEN, the defendants, willfully and knowingly, having devised and intending to devise a scheme and artifice to defraud, and for obtaining money and property by means of false and fraudulent pretenses, representations, and promises, transmitted and caused to be transmitted by means of wire, radio, and television communication in interstate and

foreign commerce, writings, signs, signals, pictures, and sounds for the purpose of executing such scheme and artifice, to wit, the defendants created and operated websites that they used to place millions of dollars of unauthorized and recurring charges on credit card accounts belonging to at least tens of thousands of victims.

(Title 18, United States Code, Sections 1343 and 2.)

COUNT THREE

(Aggravated Identity Theft)

The Grand Jury further charges:

4. From at least in or about 2013 up to and including at least in or about 2017, in the Southern District of New York and elsewhere, JAMES BECKISH, JOSEPH ANTHONY DEMARIA, JAMES TONER, RICHARD WITCHER, and PETER O'BRIEN, the defendants, knowingly transferred, possessed, and used, without lawful authority, a means of identification of another person, during and in relation to a felony violation enumerated in Title 18, United States Code, Section 1028A(c), to wit, the defendants used and transferred, and aided and abetted the use and transfer of, the names and credit card numbers of other persons during and in relation to the charges in Counts One and Two of this Indictment.

(Title 18, United States Code, Sections 1028A(a),
1028A(b), and 2.)

FORFEITURE ALLEGATION

5. As a result of committing the offense alleged in Count Two of this Indictment, JAMES BECKISH, JOSEPH ANTHONY DEMARIA, JAMES TONER, RICHARD WITCHER, and PETER O'BRIEN, the defendants, shall forfeit to the United States, pursuant to Title 18, United States Code, Section 982(a)(2)(A), any and all property constituting or derived from, proceeds obtained directly or indirectly, as a result of the commission of said offense, including but not limited to a sum of money in United States currency representing the amount of proceeds traceable to the commission of said offense.

Substitute Asset Provision

6. If any of the above-described forfeitable property, as a result of any act or omission of the defendants:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;
- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty; it is the intent of the United States, pursuant to Title 21, United States Code, Section

853(p) and Title 28, United States Code, Section 2461(c), to seek forfeiture of any other property of the defendant up to the value of the above forfeitable property.

(Title 18, United States Code, Section 982;
Title 21, United States Code, Section 853; and
Title 28, United States Code, Section 2461.)



FOREPERSON



JOON H. KIM

Acting United States Attorney

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

v.

JAMES BECKISH,
JOSEPH ANTHONY DEMARIA,
JAMES TONER,
RICHARD WITCHER, and
PETER O'BRIEN,

Defendants.

INDICTMENT

17 Cr.

(18 U.S.C. §§ 1349, 1343, 1028A and 2.)

JOON H. KIM

Acting United States Attorney

Daniel Kuchta

Foreperson

Sept. 18, 2017

Filed Indictment. Case assigned to Judge Ramos.
U.S.M.S. Debra Freeman